



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009-4213



In Reply Refer To:
FWS-WRIV-1793.4

FEB 26 2003

Colonel Richard G. Thompson
District Engineer
U.S. Army Corps of Engineers
Los Angeles District
911 Wilshire Boulevard
Los Angeles, California 90017

01-AFC-17

CALIF ENERGY COMMISSION

MAR 10 2003

RECEIVED IN DOCKETS

Geraldo C. Rios
Chief, Permits Office
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Re: Informal Section 7 Consultation for the Inland Empire Energy Center Project, Riverside County, California

Dear Colonel Thompson and Mr. Rios:

We received a request from the U.S. Environmental Protection Agency (EPA) dated January 21, 2003, for our concurrence that the two proposed alternatives for the Inland Empire Energy Center (IEEC) project including the avoidance measures described in the IEEC Biological Issues Summary (September 2002) are not likely to adversely affect the federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*, "fairy shrimp"). We have been in informal section 7 consultation with the U.S. Army Corps of Engineers (Corps) since April 2002 to resolve potential project related impacts to the fairy shrimp. In our letter to the California Energy Commission dated November 8, 2002 (enclosed), we provided our comments on the two alternatives currently proposed for implementation.

The "Option 2" alternative would result in the construction of the 115-kV line aboveground on the south side of McLaughlin Road and would completely avoid impacts to potential fairy shrimp habitat. Option 1 would require the 115-kV line to be placed underground and would result in ground disturbance to within 4 feet of potential fairy shrimp habitat (site MW-051). Because of the proximity of this disturbance to site MW-051, the applicant has proposed measures to avoid potential impacts to fairy shrimp habitat including construction during the dry season, flagging of the site, an employee awareness program, installation of K-rail concrete barriers around the wetland that will allow flow of water and do not impact existing contours, hand excavation of the trenching adjacent to the wetland, restoration to pre-construction contours, dust control, and employing a biological monitor to ensure compliance with these measures. These measures would also be implemented in

conjunction with the lattice tower foundation support to be constructed for the new 500-kV transmission line. In our letter dated November 8, 2002, we requested that access by IEEC and/or Southern California Edison (SCE) be restricted to the west of the existing and new 500-kV lattice towers adjacent to site MW-051 to avoid potential impacts to fairy shrimp habitat.

IEEC, a subsidiary of Calpine Corporation, has applied to the South Coast Air Quality Management District (District) for a permit for its project in part to meet the requirements of the Federal Prevention of Significant Deterioration ("PSD") program (Title 40 Code of Federal Regulations, Part 52.21). Although the authority to issue the Federal PSD permit has been delegated to the District, EPA Region 9 retains its responsibilities to ensure that PSD permitting actions by the District are consistent with the requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). EPA has determined that the proposed project, including the avoidance measures that the project applicant has committed to implement, is not likely to adversely affect the fairy shrimp.

It is our understanding that the decision as to which option would be implemented can not be made at this time. If project changes become necessary during the design completion stage, we recommend that the Corps and/or EPA contact our office. As agreed during our interagency conference call on February 13, 2003, the Corps will provide us a copy of the draft section 404 permit for our review prior to permit issuance. Special Conditions will be incorporated into the permit to ensure the applicant implements all the avoidance measures.

Based on the information provided to us at this time, we concur with your determination that implementation of the proposed project alternatives are not likely to adversely affect the fairy shrimp. Therefore, the interagency consultation requirements of section 7 of the Act have been satisfied. Although our concurrence ends informal consultation, obligations under section 7 of the Act shall be reconsidered if (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) this action is subsequently modified in a manner that was not considered in this assessment, or (3) a new species is listed or critical habitat designated that may be affected by the action.

If you have any questions or comments regarding this letter, please contact Doreen Stadlander of this office at (760) 431-9440, extension 223.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor

Enclosure (1)

cc:

California Energy Commission, Sacramento, CA (attn. J. Bartridge)
Calpine, Dublin, CA (attn. Michael Hatfield)

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Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009-4213



In Reply Refer To:
FWS-WRIV-1793.5

NOV 08 2002

Jim Bartridge
Project Manager
California Energy Commission
1516 Ninth Street, MS 40
Sacramento, California 95814-5512

Re: Request for Agency Comments on the Preliminary Staff Assessment for the Inland Empire Energy Center project near Romoland, Riverside County, California

Dear Mr. Bartridge:

We have reviewed the Request for Agency Comments on the Preliminary Staff Assessment for the proposed Inland Empire Energy Center (IEEC) project (Docket No. 01-AFC-17) dated July 19, 2002, and received in our office on July 25, 2002, and the associated IEEC Biological Issues Summary dated September 6, 2002, and received in our office on September 16, 2002.

The proposed project is a 679-megawatt natural gas-fired combined cycle power plant near Romoland in western Riverside County on 46 acres. The project location is bordered by Ethanac Road and the Burlington Northern Santa Fe (BNSF) railway to the north, Antelope Road to the west, McLaughlin Road to the south, and San Jacinto Road to the east. The proposed project includes construction of a 0.9-mile 500-kilovolt (kV) electrical transmission line that would connect to the existing Southern California Edison (SCE) Valley substation east of the project site, a 0.9 mile 20-inch natural gas pipeline that would connect to the existing Sempra Energy gas pipeline along Menifee Road, and associated water and wastewater disposal lines. The applicant, Inland Empire Energy Center, LLC, a subsidiary of Calpine Corporation, is seeking approval from your agency for project certification by December 19, 2002.

We have previously corresponded with you regarding effects from the proposed project on the federally endangered Stephens' kangaroo rat (*Dipodomys stephensi*). As stated in our November 9, 2001, and April 19, 2002, letters to you, the proposed project occurs within the plan area boundary of the "*Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California*" dated March 1996. Compliance with this regional incidental take permit will be required prior to any ground-disturbing activities on the project site. We recommend that you contact the Riverside County Habitat Conservation Agency to finalize this issue.

As stated in our previous two letters to you, we are also concerned about effects to the federally threatened vernal pool fairy shrimp (*Branchinecta lynchi*, "fairy shrimp"). Dry season sampling for the fairy shrimp was conducted from July 8, 2001, through September 15, 2001, by Foster Wheeler Environmental Corporation, the applicant's biological consultant. The results of the 2001 dry season surveys revealed several fairy shrimp cysts that were not identifiable to species on the project site. Inundation requirements were not sufficient to complete wet season sampling for the fairy shrimp during the 2002 wet season survey period. Therefore occupation of the project site by the listed fairy shrimp species is unknown.

We have been in informal Section 7 consultation with the U.S. Army Corps of Engineers (Corps) and have been working with the applicant's consultant, NJ Resources, Inc., since April 2002 to resolve project impacts to a seasonal wetland identified as "site MW-051." This site is under Corps jurisdiction and contained unidentified fairy shrimp cysts during the 2001 dry season surveys. Site MW-051 lies just north of McLaughlin Road and west of the BNSF railway. Currently SCE owns an easement within the IEEC project site that includes an existing east-west 115-kV electrical distribution line immediately north of McLaughlin Road and immediately south of site MW-051. Because the new 500-kV transmission line will be constructed in close proximity to the existing 115-kV line, the applicant will contract with SCE to either underground the 115-kV line along its current alignment to the north of McLaughlin Road (Option 1) or construct a new aboveground 115-kV line along the southern edge of McLaughlin Road (Option 2).

Because constructing the 115-kV line aboveground on the south side of McLaughlin Road would completely avoid potential impacts to potential fairy shrimp habitat, we strongly recommend that your agency approve Option 2. Undergrounding of the 115-kV line would result in ground disturbance to within 4 feet of site MW-051. Because of the proximity of this disturbance to site MW-051, the applicant has proposed conservation measures to avoid potential impacts to fairy shrimp including construction during the dry season, flagging of the site, an employee awareness program, installation of K-rail concrete barriers around the wetland, hand excavation of the trenching adjacent to the wetland, restoration to pre-construction contours, and employing a biological monitor to ensure compliance with these measures. We also recommend that the applicant implement dust control measures and ensure that the concrete barriers installed around the wetland allow for flow of water and do not impact existing contours. We anticipate that potential impacts to fairy shrimp habitat from undergrounding of the 115-kV line could be avoided with implementation of these measures.

Site MW-051 is within 12 feet to the east of a lattice tower foundation support to be constructed for the new 500-kV transmission line. The area of disturbance for construction between site MW-051 and this foundation support would be 4 feet. The applicant has proposed avoidance of potential impacts to the fairy shrimp from this foundation support by implementing similar conservation measures proposed for the undergrounding of the 115-kV distribution line. We anticipate that potential impacts to the listed fairy shrimp could be avoided with implementation of these conservation measures.

In the spring of 2002, SCE replaced the existing 115-kV line wooden poles adjacent to MW-051 and drove through an existing dirt access road on the western edge to access the existing 500-kV lattice tower for maintenance. We subsequently contacted SCE and requested that they conduct future access to the west of this tower to avoid potential impacts to site MW-051. We request that as a condition of the certification of this project, access by IEEC and/or SCE be restricted to the west of the existing and new 500-kV lattice towers adjacent to site MW-051 to avoid potential impacts to fairy shrimp habitat.

As stated on page 4 of the Biological Resource Responses section in the IEEC Biological Issues Summary document, the tower locations will not be finalized until SCE determines the detailed design which may occur after certification of this project. Should design changes result in a decrease in the width between site MW-051 and an area of disturbance, we request that your agency contact our office to discuss potential impacts to listed fairy shrimp.

If you have any questions or comments regarding this letter, please contact this office at (760) 431-9440.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen A. Evans", with a stylized flourish at the end.

Karen A. Evans
Assistant Field Supervisor

cc:

Robert Revo Smith (U.S. Army Corps of Engineers, Los Angeles)
Kelly Schmoker (Regional Water Quality Control Board)
Tracy Alsobrook (Southern California Edison, Rancho Cucamonga)
Rob Lamkin (Inland Empire Energy Center, LLC, Pleasanton)